

LAW OFFICES

GULLETT, SANFORD, ROBINSON & MARTIN, PLLC

230 FOURTH AVENUE, NORTH, 3RD FLOOR
POST OFFICE BOX 198888
NASHVILLE, TENNESSEE 37219-8888

TELEPHONE (615) 244-4994
FACSIMILE (615) 256-6339

GARETH S. ADEN
G. RHEA BUCY
GEORGE V. CRAWFORD, JR.
A. SCOTT DERRICK
THOMAS H. FORRESTER
M. TAYLOR HARRIS, JR.
LINDA W. KNIGHT
JOEL M. LEEMAN
ALLEN D. LENTZ
JOSEPH MARTIN, JR.
JUSTIN T. MILAM
JEFFREY MOBLEY
JULIE C. MURPHY

KATHRYN H. PENNINGTON
WM. ROBERT POPE, JR.
WAYNE L. ROBBINS, JR.
JACK W. ROBINSON, JR.
JACK W. ROBINSON, SR.
VALERIUS SANFORD
WESLEY D. TURNER

JOHN D. LENTZ
OF COUNSEL
B. B. GULLETT
1905-1992

August 21, 1997

Mr. David Waddell
Executive Secretary
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, TN 37201

Re: *Universal Service Generic Contested Case*


Docket No. 97-00888

Dear Mr. Waddell:

Enclosed for filing are the original and thirteen copies of Comments of AT&T Communications of the South Central States, Inc. as to Issues and Schedules in the above matter in response to the Hearing Officer's Notice of Proposed Schedule and Request for Comments.

Copies are being served on counsel for known parties and also to other interested parties.

Yours very truly,


Val Sanford

VS/ghc
Enclosure

**BEFORE THE TENNESSEE REGULATORY AUTHORITY
NASHVILLE , TENNESSEE**

In re: UNIVERSAL SERVICE GENERIC CONTESTED CASE

Docket No: 97-00888

RECEIVED
TENN. REG. AUTH.
AUG 21 1997
NASHVILLE, TN

**COMMENTS OF AT&T COMMUNICATIONS OF THE SOUTH CENTRAL
STATES, INC. AS TO ISSUES AND SCHEDULE**

Val Sanford, #3316
GULLETT, SANFORD, ROBINSON & MARTIN, PLLC
230 Fourth Avenue North, 3rd Floor
P.O. Box 198888
Nashville, TN 37219-8888
(615) 244-4994

James P. Lamoureux, Esq.
AT&T
Room 4068
1200 Peachtree Street N.E.
Atlanta, GA 30309
(404) 810-4196

Attorneys for AT&T Communications of the
South Central States, Inc.

August 21, 1997

**BEFORE THE TENNESSEE REGULATORY AUTHORITY
NASHVILLE , TENNESSEE**

In re: UNIVERSAL SERVICE GENERIC CONTESTED CASE

Docket No: 97-00888

TABLE OF CONTENTS

	<u>PAGE</u>
A. General Principles for Organizing Proceeding	1
B. Matrix Chart of Issues	5
1. Definition of Universal Service, i.e., what services are to be supported by a Tennessee universal service support system?.	5
2. What carriers/providers are eligible to receive support?	7
3. What carriers/providers must provide support under at Tennessee system?	10
4. What should be the basis for determining support, including the requirements that rates be affordable and that ny subsidy be explicit?	11
5. How should the TRA determine the basis for "high cost" support . .	13
6. How should the TRA determine the basis for support for "low income consumers?"	14
7. What support should be provided schools and libraries?	15
8. What support should be provided for health care providers?	16
9. What should be the sources, and the level or amount of, support in a Tennessee universal service support system?	17

TABLE OF CONTENTS

	<u>PAGE</u>
10. What steps should the TRA take to ensure that a Tennessee system is nondiscriminatory and competitively neutral?	18
11. How may universal service support contributions be recovered by the carriers/providers making them?	19
12. How should the transition from the existing implicit system in Tennessee to a new explicit system be accomplished, including any adjustments in the rates of carriers affected by the transition?	20
13. How, and by whom, should a Tennessee universal service support system be administered?	21
14. What action needs to be taken to bring all decisions within a coherent, comprehensive, coordinated plan?	22
 C. PRELIMINARY ISSUES	
1. Consolidation of Access Charge Reform, Docket No. 97-00889 or Unbundled Network Element Pricing, Docket No. 97-01262	23
2. Bifurcation of Rural and Nonrural carriers	23
3. Recommendations as to Statutory Changes	24
4. The Necessity of Advisability for the Adoption of Rules and Regulations	24
5. Proposed schedule	24
 D. STATEMENT OF AT&T'S PRELIMINARY POSITION	25
V. Affordability	25
C. Proposal for Comment	25
D. Proposal Requested	26
VI. Carriers Eligible for Universal Service Support	27
A. Proposal for Comment	27
B. Proposal for Comment	28
C. Proposal for Comment	28

TABLE OF CONTENTS

	<u>PAGE</u>
D. Proposal for Comment	28
VII. High Cost Support	29
A. Proposal for Comment	29
B. Proposal for Comment	29
C. Proposal for Comment	29
VIII. Support for Low Income Consumers	30
A. Proposal for Comment	30
B. Proposal Requested	30
C. Proposal Requested	31
X. Schools and Libraries	31
A. Proposal Requested	31
B. Proposal Requested	31
XI. Support for Health Care Providers	32
A. Proposal Requested	32
B. Proposal Requested	32
XIII. Administration of Support Mechanisms	32
A. Proposal for Comment	32
B. Proposal Requested	32
C. Proposal Requested	32
D. Proposal Requested	33
E. Proposal Requested	33
F. Proposal Requested	33
G. Proposal Requested	34
H. Proposal Requested	34
XIV. Other	34
A. Proposal Requested	34
B. Proposal Requested	34
G. Proposal Requested	35
H. Proposal Requested	35
I. Proposal Requested	35
E. PROPOSED SCHEDULE FOR UNIVERSAL SERVICE	36
First Track -- Issues 1-4	37

TABLE OF CONTENTS

	<u>PAGE</u>
Second Track -- Issues 5-9	43
Third Track -- Issues 10-14	44
CONCLUSION	46

**BEFORE THE TENNESSEE REGULATORY AUTHORITY
NASHVILLE , TENNESSEE**

In re: UNIVERSAL SERVICE GENERIC CONTESTED CASE

Docket No: 97-00888

**COMMENTS OF AT&T COMMUNICATIONS OF THE SOUTH CENTRAL
STATES, INC. AS TO ISSUES AND SCHEDULE**

In response to the Hearing Officer's Notice of Proposed Schedule and Request for Comments, AT&T Communications of the South Central States, Inc. (here "AT&T") submits the following comments and suggestions:

A. General Principles for Organizing Proceeding.

In planning for the organization of this proceeding, it must be recognized that its purposes are (i) to fulfill the TRA's duties with respect to the Federal universal service support system; and (ii) to develop a coherent, comprehensive coordinated Tennessee universal service support system. Two important principles follow for these purposes:

- (i) Using the FCC's order as a model for the organization of the proceeding may obscure or slight Tennessee issues; and
- (ii) The temptation to focus on discreet issues must never be allowed to divert attention from the goal of developing a coordinated, coherent, comprehensive overall plan for a Tennessee system.

Thus, a purpose of these comments is to offer a tentative outline of the requirements of such a plan, which will, in effect, be an outline of the contents of the final order to be entered by the TRA. It is suggested that the hearing officer, after the conference on September 10,

1997, adopt a tentative outline, which should be subject to periodic adjustment as the proceeding develops.

As the Hearing Officer has recognized, the first step in organizing this proceeding is the identification of the issues; and there are certain major issues to be identified and various sub issues under each major issue. It will also be necessary to categorize each issue according to its nature; and there are four basic categories:

- (i) Issues of law or policy, or both, requiring no testimony for their resolution, which can be disposed on briefs;
- (ii) Issues of fact, or policy, or both, requiring testimony, which will require a hearing;
- (iii) Issues of fact which may be determined preliminarily by TRA investigations or data requests; and
- (iv) Implementation actions to be taken on the basis of decisions as to the issues, including any ancillary proceedings.¹

This proceeding is further complicated by the fact that the proceeding involves both the Federal universal service system and a Tennessee system. With respect to the Federal system, the TRA must follow federal law. With respect to the Tennessee system, as to each issue, there may be questions as to preemption, as to requirements of state law, and as to policy.

Once the categories are determined, a master schedule should be adopted, including a briefing schedule for legal and policy issues; a schedule for hearings, prefiled testimony and discovery as to factual and policy issues requiring testimony; a schedule for TRA

¹ As general issues are determined, it may be necessary to institute ancillary contested case proceedings, including show cause orders, to relate those general determinations to specific carriers/providers or circumstances.

investigations/data requests as to factual determinations not requiring testimony or hearing; and a tentative schedule for implementation actions. All schedules should reflect priorities and be coordinated within this proceeding and with respect to other related proceedings. As decisions with respect to particular issues are made, it will be necessary to take actions to implement those decisions. Periodic status conferences should be convened by the Hearing Officer for that purpose.

The Hearing Officer has requested comments as to certain specific proposals. Accordingly, as the Hearing Officer suggested, AT&T will briefly state its preliminary position with respect to various issues, including the specific proposals.

In order to organize all these matters in the most coherent and usable form, AT&T is submitting herewith a matrix chart, including all issues as presently understood, indicating the category.² From that matrix chart, AT&T is then submitting a statement of its positions and a proposed tentative master schedule.

The Hearing Officer has properly identified certain preliminary issues, consolidation, bifurcation, etc. However, AT&T suggests that decisions as to these matters should be made only after a coherent and comprehensive picture of the entire proceeding is developed. Accordingly, AT&T will address these preliminary issues, after its discussion of the general organization of the proceeding.

The TRA staff followed closely the arrangement of issues followed by the FCC in its order. That order, however, was not designed for emphasizing the issues raised by the Tennessee statutes or for state commissions generally; and following it exactly tends to obscure

² For the sake of brevity, the matrix chart does not generally include a discussion of, or citations to, relevant statutes, FCC Rules or Orders. Such discussions and citations were given in AT&T's original response to which reference should be made.

state issues. Accordingly, for the purpose of these comments, the issues have been rearranged for the purpose of making sure that Tennessee issues are covered coherently. However, the intent is to cover all the issues, although in a somewhat different order and format.

The sequence of the issues to be addressed should be based on the fact that the determination of some issues is necessary before other issues can properly be addressed. For example, after determining what services are to be included in universal service, it will be necessary to determine what carriers/providers are eligible to receive support and what carriers/providers should be required to provide support. Such identification is necessary before moving to issues as to the measure of support, affordability, etc. and before decisions can logically be made as to bifurcation of rural and nonrural carriers, etc. In any event, the legal and factual issues can, and should, be put on different, but concurrent, tracks. For these and related reasons, a new order of issues is proposed here.

AT&T recognizes that there are many ways in which this proceeding may be organized. It offers the suggestions which follow as tentative suggestions. After reviewing the comments of other parties, revisions in this approach may be appropriate. It is hoped that these suggestions will be of assistance to the Hearing Officer in making the determinations necessary for the orderly and expeditious conduct of this most complex and important proceeding.

B. MATRIX CHART OF ISSUES

ISSUES	FEDERAL SYSTEM	TN SYSTEM (preempted, State law or policy)
1. Definition of Universal Service, i.e., what services are to be supported by a Tennessee universal service support system?		
(a) Issues of law or a policy (briefs and no testimony)		
(i) Must, or should, a Tennessee system be limited to "basic residential local exchange telephone service", or must any Tennessee system be based on the federal definitions of "universal service", "telecommunications carrier" and "intrastate telecommunications service"? ³	N/A ⁴	√ ⁵
(ii) Assuming that a Tennessee system is not limited to "basic residential local exchange telephone service", should the TRA include for support under a Tennessee system, services in addition to those designated by the FCC; and, if so, what services?	N/A	√
(iii) Must, or should, the TRA adopt specific procedures for passing upon "exceptional circumstances" petitions as contemplated by paragraphs 89 - 92 of the FCC Order; and, if so, what should they be?	√	√
(iv) Must, or should, the TRA adopt quality of service standards and procedures and collect quality of service data (see paragraphs 100-101); and, if so, what should they be?	√	√
(b) Issues of fact or policy (testimony required)		
None		
(c) Issues of fact for TRA investigation/data requests		

³ "Must" indicates a question of law, "should" indicates a question of policy.

⁴ N/A indicates "not applicable", meaning that the TRA has no role to play in the Federal System as to this issue.

⁵ "√" indicates that the question is applicable to the particular system.

ISSUES	FED SYSTEM	TN SYSTEM
(i) Are there any telecommunications carriers/providers that will not be able to offer all the elements of universal service, as federally defined, by the end of 1998 (e.g., toll blocking); and, if so, what is the nature of the problem?	√	√
(d) Implementation actions.		
(i) Decisions made as to issues (a)(ii)(iii) & (iv), if answered affirmatively, will require further action to implement them. The exact nature of that action cannot now be predicted. The hearing officer should hold periodic status conferences for the purpose of such implementation.	√	√
(ii) The results of the staff investigation/data requests called for in (d)(i) above, may require one or more evidentiary hearings, or other implementation	N/A	√
(iii) Should the TRA recommend to the General Assembly the revision of §§65-5-207, or other statutes concerning universal service; and, if so, should the parties participate in arriving at such recommendation?	N/A	√

ISSUES	FED SYSTEM	TN SYSTEM
2. What carriers/providers are eligible to receive support?		
(a) Issues of law or policy (briefs only -- no testimony)		
(i) What procedures should be followed in the designation of "service areas" pursuant to §214(e)(5), both rural and nonrural?	√	N/A
(ii) What procedures should be followed in the designation of eligible telecommunications carriers pursuant to §214(e)(2), including which carriers qualify as nonrural carriers and are subject to January 1, 1999 federal U.S. support?	√	N/A
(iii) For the purpose of a Tennessee system, must, may ⁶ or should, the same "service areas" and "eligible telecommunications carriers" be designated; and if not, what alternative should be followed?	N/A	√
(iv) Must, may, or should, telecommunications carriers which are not under the TRA state law jurisdiction, be included as potentially "eligible telecommunications carriers" for the purpose of a Tennessee system; and, if so, what telecommunications carriers are to be included?	N/A	√
(v) Should the TRA adopt advertising guidelines as suggested in ¶ 148 of the FCC order for the purposes of the federal system? If so, how should such guidelines be established?	√	N/A
(vi) May, or should, the TRA adopt advertising requirements and guidelines for any state mechanism?	N/A	√
(vii) May, or should, the TRA adopt "facilities requirements" for a state system analogous to those adopted by the federal system by §214(e)(1) as implemented by the FCC in ¶¶ 150-180?	N/A	√
(viii) What, if any, particular action should the TRA take to monitor the provision of supported service "to ensure that universal service support is used as intended until competition develops", see §181?	√	√

⁶ "May" indicates a possible issue as to whether the TRA has the power to take the designated action.

ISSUES	FED SYSTEM	TN SYSTEM
(ix) Given the provisions of §214(e) is the concept of "carrier of last resort" still relevant; and, if so, on what basis should such carriers be designated?	N/A	√
(x) Given the provisions of §214(e) and T.C.A. §§65-4-114(b) and 65-4-113, may, or should, the TRA adopt any further standards or mechanisms with respect to a carrier's withdrawing service?	N/A	√
(xi) Must a telecommunications carrier participate fully as a party in this proceeding to be designated as eligible?	√	√
(b) Issues of fact or policy (testimony required)		
None at this time, but disputes may arise requiring testimony and hearings.		
(c) Issues of fact for TRA investigation/data requests		
(i) Whether there are any unserved areas in Tennessee within the meaning of §214(e)(3)?	√	√
(d) Implementation Actions		
(i) The TRA must designate "service areas" pursuant to §214(e)(5). Service areas for rural telephone companies should be designated as provided in FCC Rule §54.207. For nonrural telephone companies, the TRA should require such companies to file a proposed service area designation consistent with the principles set forth by the joint board and the FCC, see ¶¶184 and 185. All parties should then be allowed to comment on those proposals; and, after hearing, the TRA should designate appropriate service areas for such nonrural telephone companies.		
(ii) Once the foregoing issues of law are decided, the TRA must designate eligible telecommunications carriers, and in doing so must bring all such carriers within its jurisdiction for this purpose.	√	√
(iii) If the TRA adopts advertising requirements and guidelines, or facilities requirements, procedures should be adopted to implement and enforce them.	√	√

ISSUES	FED SYSTEM	TN SYSTEM
(iv) If the TRA determines that there are gaps or inconsistencies in the present Tennessee statutes in this regard, e.g., with respect to carriers not now subject to TRA jurisdiction under state law, should the TRA recommend legislative changes?	N/A	√
(v) Once the designation of service areas and eligible telecommunications carriers is completed, should proceedings with respect to rural and nonrural carriers then be bifurcated?	N/A	√
(vi) What procedure should be put in place to ensure that rural carriers satisfy the notification of status requirements?	√	√

ISSUES	FED SYSTEM	TN SYSTEM
3. What carriers/providers must provide support under a Tennessee system?		
(a) Issues of law or policy (briefs no testimony).		
(i) Does §254(f) require the TRA to adopt and implement the federal definitions of "telecommunications carrier", "intrastate telecommunications service" in any state universal service support system? If so, must all telecommunications carriers who provide Tennessee intrastate telecommunications services be required by the TRA to contribute to any Tennessee universal service support mechanism? If not, may, or should, all such carriers be required to contribute?	N/A	√
(ii) Despite the language of §254(f) do the limitations on the TRA's jurisdiction under Tennessee law preclude it from bringing telecommunications service providers who are not within its regulatory jurisdiction within the scope of the requirements to provide support to a Tennessee system?	N/A	√
(iii) If a carrier/provider has been given notice that its rights may be determined in this proceeding, but fails to attend or participate, should the default provisions of T.C.A. §4-5-309 be applied?	N/A	√
(b) Issues of fact or policy (testimony required).		
None at this time, but may be necessary -- particularly if TRA jurisdiction is challenged.		
(c) Issues of fact for TRA investigation/data requests		
(i) Rule 54.703 specifies the telecommunications carriers that must contribute to the federal system. The TRA staff should identify all such carriers operating in Tennessee.	√	√
(d) Implementation Actions.		
(i) All telecommunications carriers which may be required to contribute support must be given notice that their rights may be determined in this proceeding and of what action may be taken if they fail to attend and participate.	√	√

ISSUES	FED SYSTEM	TN SYSTEM
4. What should be the basis for determining support, including the requirements that rates be affordable and that any subsidy be explicit?		
(a) Issues of law or policy (briefs only -- no testimony)		
(i) In developing a Tennessee system, must, or should, the TRA follow the federal standards of affordability as set forth by the FCC (§§ 108-126)?	N/A	✓
(ii) If so, what procedures should the TRA follow in this proceeding to apply the factors stated by the FCC to Tennessee intrastate rates for the services designated by the FCC to be supported under a Tennessee universal service support mechanism?	N/A	✓
(iii) What data will have to be collected in order to implement a Tennessee mechanism pursuant to the concepts in the FCC order and how should that data be collected?	N/A	✓
(iv) Provided that existing rates are set to be just and reasonable pursuant to T.C.A. §65-5-201, is there an assumption that current rates are "affordable"?	N/A	✓
(v) Is the determination of "affordability" pursuant to T.C.A. §65-5-209 relevant to determining the "affordability" of universal service rates?	N/A	✓
(vi) What should be the territorial scope of universal service rates, e.g., statewide by carrier, by "service area", or by category of support?	✓	✓
(vii) What definition of explicit subsidy should be used by the TRA for any Tennessee system?	N/A	✓
(viii) What procedure should the TRA follow in this proceeding in identifying and determining the amount of existing implicit support for "universal service" as that term is defined in the Federal Act and implemented in the FCC's order?	✓	✓
(ix) What procedure should the TRA follow in this proceeding in determining the amount and sources of explicit, specific, predictable, sufficient support for "universal service" as that term is defined in the Federal Act and implemented in the FCC's order?	✓	✓

ISSUES	FED SYSTEM	TN SYSTEM
(x) Is there a conflict between the federal statutes' provision that support "should" be explicit and the Tennessee requirements in T.C.A. §65-5-207(c)(1) and (3); and, if so, which must be followed in this proceeding for a Tennessee system?	N/A	✓
(xi) Should the TRA adopt procedures, including requiring reports or other data collection to monitor subscribership levels, or other aspects of the effectiveness of any Tennessee universal service support mechanism in order to maintain affordable rates and only explicit, specific, predictable support?	✓	✓
(xii) Should a special procedure be established for hearing complaints as to the affordability of rates?	✓	✓
(xiii) Should periodic reports be required from carriers/providers of local service to collect information as to affordability on a current basis?	✓	✓
(b) Issues of fact or policy (testimony required)		
None at this time, but disputes may develop requiring testimony.		
(c) Issues of fact for TRA investigation/data requests		
(i) The TRA should submit data requests to all LECs to collect the information necessary to determine "affordability".	✓	✓
(d) Implementation actions.		
(i) The decisions made in this regard form the basis for decisions as to the issues which follow.	✓	✓

ISSUES	FED SYSTEM	TN SYSTEM
5. How should the TRA determine the basis for "high cost" support?		
(a) Issues of law or policy (briefs only -- no testimony required).		
(i) Must, or should, the determination as to "high cost" support be made as an "alternative" support mechanism in accordance with T.C.A. §65-5-207(c)?	N/A	√
(ii) Must, or should, the TRA in this proceeding identify "implicit intrastate universal service support" for high cost areas (see ¶202)?	√	√
(iii) What should be the core elements of the Tennessee cost study (i.e., residential, business, usage)?	N/A	√
(iv) What areas should be included in each cost study?	N/A	√
(v) Is it appropriate to require deaveraging to the wire center serving area, at least, and to smaller areas, if feasible?	√	√
(vi) What elements should be included in the revenue benchmark for a Tennessee system?	N/A	√
(b) Issues of fact or policy (testimony required)		
(i) What cost model or methodology should be adopted?	√	√
(ii) How should that costs model or methodology be applied?	√	√
(iii) How should the cost be related to the benchmark, and rates be determined?	√	√
(c) Issues of fact for TRA investigation/data requests		
None at this time.		
(d) Implementation actions.		
(i) The decisions made must be incorporated into TRA orders and carrier tariff filings.	N/A	√

ISSUES	FED SYSTEM	TN SYSTEM
6. How should the TRA determine the basis for support for "low income consumers?"		
(a) Issues of law or policy (briefs only -- no testimony required).		
(i) Should the TRA in this proceeding state specifically the existing Lifeline and Linkup Tennessee programs?	N/A	✓
(ii) Must, or should, the TRA in this proceeding revise the existing Lifeline and Linkup programs?	N/A	✓
(iii) What standards and procedures should be adopted to address any waiver requirements of carriers to the no-discount rule?	✓	✓
(b) Issues of fact or policy (testimony required).		
(i) Should the current level of discounts in Tennessee be changed; and, if so, to what level?	N/A	✓
(ii) What funding mechanism should be developed for support of Lifeline and Linkup for a Tennessee system?	N/A	✓
(c) Issues of fact for TRA investigation/data requests		
(i) Collect and make available current materials regarding Lifeline and Linkup in Tennessee.	N/A	✓
(d) Implementation actions.		
(i) Any decisions must be implemented in TRA orders and in carrier tariff filings.	N/A	✓

ISSUES	FED SYSTEM	TN SYSTEM
7. What support should be provided schools and libraries?		
(a) Issues of law or policy (briefs only -- no testimony)		
(i) Should the TRA in this proceeding specifically state the discounts for schools and libraries currently available in Tennessee?	N/A	✓
(ii) Should the TRA make any revisions in the current system of discounts in Tennessee/	N/A	✓
(iii) Should any additional discounts be authorized in this proceeding?	N/A	✓
(iv) What procedures, standards or criteria should be adopted to handle complaints with respect to such discounts?	N/A	✓
(b) Issues of fact or policy (testimony required)		
(i) What cost studies should be undertaken, and by whom, to determine if any such discounts are receiving, or require, a subsidy?	N/A	✓
(ii) If a subsidy is required, what funding mechanism should be adopted for the support of such programs?	N/A	✓
(c) Issues of fact for TRA investigation/data requests		
(i) Collect and make available materials describing all current discounts in Tennessee for schools and libraries.	N/A	✓
(d) Implementation actions.		
(i) Decisions to be implemented in TRA orders and in carrier tariff filings.	N/A	✓

ISSUES	FED SYSTEM	TN SYSTEM
8. What support should be provided for health care providers?		
(a) Issues of law or policy (briefs only -- no testimony)		
(i) Should the TRA in this proceeding adopt a mechanism for support for health care providers in addition to that provided under federal law?	N/A	√
(b) Issues of fact or policy (testimony required)		
(i) If such additional support is to be provided, who should be eligible to receive it, under what criteria?	N/A	√
(ii) If such additional support is to be provided, what should be the level of support and by what means should it be provided?	N/A	√
(c) Issues of fact for TRA investigation/data requests		
None at this time.		
(d) Implementation Actions.		
None at this time.		

ISSUES	FED SYSTEM	TN SYSTEM
9. What should be the sources, and the level or amount of, support in a Tennessee universal service support system?		
(a) Issues of law or policy (briefs only -- no testimony)		
(i) Are the limitations imposed in T.C.A §65-5-207(c)(1) and (3) consistent with the federal concept of "sufficient" as expressed in §254(b)(5) and (f); and, if not, which should govern in a Tennessee system?	N/A	√
(ii) Must, of should, the TRA for any Tennessee system follow the FCC's "end-user telecommunications revenues" approach for the calculation of contributions to universal service (§854)?	N/A	√
(b) Issues of fact of policy (testimony required)		
(i) What should be the explicit, predictable and specific sources for the support of "affordable rates" generally, for the support of rural and high cost areas, and for the support of low income consumers (Lifeline and Linkup); and what procedure should be followed by the TRA in making those determinations? ⁷	N/A	√
(ii) In establishing a Tennessee system, what cost allocation rules, accounting safeguard, and guidelines should the TRA establish (1) to ensure that services included in the definition of universal service bear no more than a reasonable share of the joint and common cost of facilities used to provide those services; and (2) protect against the unwarranted subsidization of services or providers; and what procedures should the TRA adopt in order to make those determinations?	N/A	√
(iii) If the TRA does not follow the FCC's "end-user telecommunications revenues" approach for the calculation of contributions, what method of calculations should be required?	N/A	√
(c) Issues of fact for TRA investigation/data requests		
None at this time.		
(d) Implementation actions.		
None at this time.		

⁷ This question overlaps with the question concerning funding mechanisms in issues 6, 7, and 8.

ISSUES	FED SYSTEM	TN SYSTEM
10. What steps should the TRA take to ensure that a Tennessee system is nondiscriminatory and competitively neutral?		
(a) Issues of law (briefs only -- no testimony)		
(i) Should the TRA develop specific guidelines or criteria as to the requirements that any system be nondiscriminatory and competitively neutral, and, if so, what should they be?	N/A	✓
(ii) Should the TRA expressly review each aspect of the Tennessee system as specific decisions are made to assure that those decisions comply with the standards of nondiscriminatory and competitively neutral?	N/A	✓
(iii) Should the TRA adopt specific procedures for handling complaints with respect to charges of violating these policies?	N/A	✓
(b) Issues of law or policy (testimony required)		
(i) As particular decisions are made, hearings may be required to determine specific issues in this regard.	N/A	✓
(c) Issues of fact for TRA investigation/data requests		
None at this time.		
(d) Implementation actions		
None at this time.		

ISSUES

**FED
SYSTEM**

**TN
SYSTEM**

11. How may universal service support contributions be recovered by the carriers/providers making them?

(a) Issues of law or policy (briefs only -- no testimony)

(i) Given the varying forms of regulation to which the carriers/providers which will be making contributions to a Tennessee system are subject, should the TRA attempt to develop any general rules, criteria, or guidelines in this regard in this proceeding; or should the TRA leave such determinations to subsequent proceedings involving particular carriers or categories of carriers?

N/A

✓

(b) Issues of fact of policy (testimony required)

None at this time.

(c) Issues of fact for TRA investigation/data requests

None at this time.

(d) Implementation actions.

(i) Depending on the answers to (a)(1) above, specific procedures may need to be adopted.

N/A

✓

ISSUES	FED SYSTEM	TN SYSTEM
12. How should the transition from the existing implicit system in Tennessee to a new explicit system be accomplished, including any adjustments in the rates of carriers affected by the transition?		
(i) Given the fact that the carriers/providers which will be affected by the transition are subject to differing regulatory systems and have differing rates, should the TRA commence separate proceedings to determine the means of transition and any adjustments for the effect thereof for each such provider or each category of providers?	N/A	✓
(ii) Given the fact that any transition will also affect the providers which have been making contributions to the existing system, what general standards or criteria should govern the consequences of that effect, and what procedure should be followed in accomplishing the transition as to such providers?	N/A	✓
(iii) Since the same providers may be making both contributions and receiving support, should a system of off-sets be provided?	N/A	✓
(iv) What reports should be required, and other data collected, by the TRA or the administrator, with respect to the transition?	N/A	✓
(b) Issues of fact or policy (testimony required)		
(i) What, if any, additional cost studies should be required, on what basis, and by whom should they be made?	N/A	✓
(ii) What standards or criteria should govern the transition?	N/A	✓
(c) Issues of fact for TRA investigation/data requests		
None at this time.		
(d) Implementation actions.		
(i) Determinations must be made as to the application of any such standards or criteria to specific carriers/providers or categories of carriers/providers.	N/A	✓

ISSUES	FED SYSTEM	TN SYSTEM
13. How, and by whom, should a Tennessee universal service support system be administered?		
(a) Issues of law or policy (briefs only -- no testimony).		
(i) Does the TRA have the power to delegate the administration of a Tennessee system to a neutral third-party administrator? If so, should it do so, and if it does, how will that administrator be chosen and what duties will be assigned to it?	N/A	√
(ii) The Tennessee statute contemplates that contributions will fund administration of the mechanism. Must, or should, the TRA in this proceeding determine the personnel, equipment and facilities needed for the administration of the system and estimate the cost of funding administration, with such costs to be included in the contributions to the system?	N/A	√
(iii) May, must, or should the TRA create a separate division or other office within the TRA for the administration of the Tennessee mechanism?	N/A	√
(iv) What duties, if any, should be specifically assigned to any administrator of the system and what duties should be retained by the directors of the TRA?	N/A	√
(b) Issues of fact or policy (testimony required)		
None at this time.		
(c) Issues of fact for TRA investigation/data requests		
None at this time.		
(d) Implementation actions.		
(i) The TRA may wish to hire an outside consultant, designate a staff/industry task force, or an advisory committee to assist in these issues of organizing the administration of a Tennessee mechanism.	N/A	√
(ii) If the decision is to use a third-party neutral administrator, legislative authorization may be necessary.	N/A	√

ISSUES	FED SYSTEM	TN SYSTEM
14. What action needs to be taken to bring all decisions within a coherent, comprehensive, coordinated plan?		
(a) Issues of law or policy (briefs only -- no testimony)		
(i) What criteria should be established for determining the need for public interest payphones?	N/A	✓
(ii) If public interest payphones are established, how should they be funded?	N/A	✓
(iii) How should the Tennessee intrastate funding of the Tennessee Relay Center be determined and administered?	N/A	✓
(iv) When should universal service be re-addressed, and should that be included in any order entered in this proceeding?	N/A	✓
(v) What method should be used to calculate existing implicit subsidies (i.e., by element, group or category)?	N/A	✓
(b) Issues of fact or policy (requiring testimony)		
(i) What cost methodology should be used to determine implicit subsidies?	N/A	✓
(ii) What implicit subsidies now exist, and in what amounts?	N/A	✓
(iii) What is the effect of contracts between LECs? (EAS, toll, private line, etc.) on subsidies?	N/A	✓
(c) Issues of fact for TRA investigation/data requests		
(i) The staff should continually review existing circumstances to see if other issues should be added, and should bring to the attention of the Directors and the parties any new issues which may develop (e.g., a decision by the Court of Appeals in the BellSouth price plan case).	N/A	✓
(d) Implementation actions.		
(i) The Hearing Officer should convene periodic status conferences to make adjustments in the outline of issues and the schedule.	N/A	✓

C. PRELIMINARY ISSUES

1. Consolidation of Access Charge Reform, Docket No. 97-00889 or Unbundled Network Element Pricing, Docket No. 97-01262

AT&T continues to believe the consolidation of these dockets is neither necessary nor appropriate. Instead, the conduct of the dockets should be coordinated. For example, the universal service docket should have sequential priority over the access charge reform docket. Relevant testimony in one docket should be admissible in the other. Overlapping discovery should be avoided. As decisions are made in the universal service docket, or in the UNE pricing docket, they should be considered, if relevant, as disposing of comparable issues in the other dockets. For example, cost methodology and models developed in the UNE pricing docket may, to the extent relevant, be used in the universal service docket without having to develop them anew from scratch. However, each of these three dockets has its own distinct issues and objectives. To lump them all together would only lead to unnecessary complication and confusion -- of which there is already an ample supply.

2. Bifurcation of Rural and Nonrural carriers.

Bifurcation should not be ordered at this time, especially since the definition of universal service (AT&T's issue 1) is applicable to all and the determination of eligible telecommunications carriers is applicable to all (AT&T's issue 2). These issues, at the least, should be determined before any bifurcation is considered. After these issues are determined, bifurcation may be considered; and if bifurcation is not ordered then, it may be reconsidered as the proceeding develops. In general, AT&T's position is that all LECs should be considered in the same proceeding for the purposes of general policy issues. Separate consideration would likely be appropriate with respect to the computation of subsidies and related issues.

3. Recommendations as to Statutory Changes

It is evident that there are numerous gaps in the existing Tennessee statutes and a number of possible inconsistencies between the Federal statute and the existing Tennessee statute. If politically feasible, it would be beneficial for the Tennessee General Assembly to address these matters at its next session and to enact appropriate legislation as early in that session as feasible - - in order that the legislation might be considered in this proceeding without unduly delaying it. It is suggested that the TRA create a staff/industry task force to consider specific legislative proposals which the TRA might recommend. However, AT&T believes that even though a revision in the statutes would be beneficial -- particularly in resolving issues which would otherwise have to be litigated -- the TRA has the authority to proceed.

4. The Necessity or Advisability for the Adoption of Rules and Regulations

The General Assembly expressly directed that Tennessee universal service proceedings be conducted as generic contested cases. Under this generic contested case the TRA's policies will be established. At least at this time, no rulemaking is required. Certainly, neither the TRA nor the parties need a parallel rulemaking proceeding going on now. In the final order in this proceeding, the TRA may address whether an implementing rulemaking proceeding is necessary or appropriate.

5. Proposed Schedule.

The schedule proposed in the notice is a helpful and important start. On the basis of the decisions reached after consideration of the comments submitted, the Hearing Officer, with the assistance of the staff, should prepare a revised schedule. As the proceeding develops, other modifications in the schedule may be appropriate.

AT&T includes a proposed revised schedule in these comments.

D. STATEMENT OF AT&T'S PRELIMINARY POSITION

Based on the FCC's experience and the positions taken by the parties in various prior proceedings in this and other states, AT&T assumes that there will be some level of disagreement as to all significant issues. Indeed, there is likely to be disagreement as to what issues should be addressed and how they should be stated. AT&T suggests that the most appropriate way to determine that level of disagreement is, first, by the adoption, on the basis of the comments received, of a revised statement of issues by the Hearing Officer; and, then, by requiring succinct briefs on all issues of law not requiring testimony. In those briefs the parties should specify the issues concerning which they request oral argument. From those briefs, the Hearing Officer and the TRA may make decisions or determine that oral argument, or an evidentiary hearing, as to certain issues is necessary or appropriate.

AT&T submits the following statements as to its preliminary positions on the various issues concerning which the TRA staff requested comments in the sequence in which they were raised by the staff.

V. Affordability⁸

- C. Proposal for Comment: Explicit subsidy is a support that is calculable and identifiable vs. implicit subsidy which generally means there is a support but the exact amount of that support has not been determined. Is there a more appropriate definition?

A standard dictionary definition of "explicit" is: "Fully revealed, or expressed without vagueness, implication or ambiguity: leaving no question as to meaning or intent."

⁸ The meaning of words depends on the context in which they are used. Thus, the fact that the same word is used in different contexts does not mean that it carries the same meaning in each context. Thus, "affordable" for the purpose of T.C.A. §65-5-209 is not necessarily the same as "affordable" for the purpose of T.C.A. §65-5-207; and assuredly is not the same as "affordable" for the purpose of §254.

The FCC discussed the distinction between "explicit" and "implicit" at ¶¶9-14. The concept of "explicit" subsidies in this context is expressed in T.C.A. §65-5-207(c)(1) and(3), which is stated in mandatory, more "explicit" terms.

The definition proposed is too general to be useful in this context. For the purpose of complying with federal requirements, analysis must begin with the Federal statute, i.e., §254.

Under subsection (e) Federal universal service support "should be explicit." Under subsection (b)(5) both Federal and State mechanisms "should be specific, predictable ..." Under subsection (f) additional state mechanisms must be "specific" and "predictable." If a subsidy is "specific" and "predictable" it will also be "explicit." The relevant provisions of the Tennessee statute do not conflict with the federal statute. Subsection (e), which governs the Federal system, according to the FCC, is not mandatory; but subsection (f) and the Tennessee statute are mandatory.

- D. Proposal Requested: The FCC identifies several components to be considered. when determining affordability of rates, such as subscribership levels, size of local calling area, consumer income level, cost of living, etc. What procedures would be least burdensome on carriers and the TRA, and would provide the information necessary to determine if rates are affordable on an ongoing basis?

AT&T is aware of no easy, simple procedure which could be followed to meet the FCC's standards for determining "affordability." To meet those standards, the TRA will have to determine the following:

- (i) The relevant rates for the designated services, which presumably each carrier/provider could supply in response to a data request from the TRA;
- (ii) Subscribership levels, which information is generally available, and could be supplied by each carrier/provider;
- (iii) The size of a customer calling area (¶114);

- (iv) The amount of toll charges a consumer incurs to contact essential service providers (§114);
- (v) Consumer income levels, i.e., the per capita income of a local or regional area (§115);
- (vi) Cost of living and population density (§116); and
- (vii) Legitimate local variations in rate design (§117).

All this information would either be available from each LEC, or from public sources available to each LEC. The only feasible way to collect this information would appear to be by means of data requests to each LEC.

VI. Carriers Eligible for Universal Service Support

- A. Proposal for Comment: The Staff defines carrier of last resort as the carrier ultimately responsible for the provision of telephone service including the provision of Universal Service core elements in a given area. Is there a better definition?

The concept of "carrier of last resort" appears in the Tennessee statutes only in T.C.A. § 65-5-207(a), the universal service section. It is not defined. The obligation of a public utility in Tennessee to serve a particular area depends, first, on whether its authority is derived from a certificate of convenience and necessity issued by the TRA or its predecessor, or whether it is authorized pursuant to its status before the certificate statute was adopted (as in most BellSouth areas), in which case its territory is defined by tariffs and maps on file with the TRA. Breeden v. Southern Bell Tel. & Tel. Co., 199 Tenn. 203, 285 S.W.2d 346 (1955); and Peoples Tel. Co. v. TPSC, 216 Tenn. 608, 393 S.W.2d 285 (1965). The TRA has the power to order services and to authorize abandonment of services, T.C.A. §65-4-114.

With respect to universal service, the concept of carrier of last resort is replaced under the Federal statute by the concept of "eligible telecommunications carrier." Under §214(e)(4)

relinquishment of designation as an eligible telecommunications carrier is authorized in any area served by more than one eligible carrier. No provision is made for relinquishment when only one carrier is designated. Therefore, it appears that there is no authority for such relinquishment.

In any event, under T.C.A. §65-4-114(b) abandonment of service requires authorization from the TRA.

Under these circumstances, the concept of "carrier of last resort" is obsolete and not relevant.

- B. Proposal for Comment: The designation of a carrier of last resort for a given region is necessary to ensure that all Tennessee consumers are provided with telecommunication services. If no carrier of last resort is designated there is the potential danger of some consumers not being served. At what point, if any, would carrier of last resort designation become unnecessary.

For the reasons stated above, such designation is not necessary.

- C. Proposal for Comment: It appears that mechanisms need to be developed to address the possibility that a carrier of last resort may desire to withdraw service in one or all regions which it serves. Allowing a carrier of last resort to withdraw needs to be based on specific and predictable criteria. At a minimum, the Staff proposes that no carrier of last resort should be allowed to withdraw service prior to the designation of another carrier to serve as the carrier of last resort. Do you have any suggestions on the criteria that needs to be established in order to allow a carrier to withdraw as carrier of last resort?

This proposal assumes that there is statutory authority for such withdrawal where no other carrier has been designated; and there is no such authority. The TRA has no power to add to or depart from §214(e).

- D. Proposal for Comment: The FCC concluded that the plain language of section 214(e) precludes adoption of additional eligibility criteria beyond those enumerated in that section. Therefore, the FCC adopted without expansion the statutory criteria set out in section 214(e), as the rules governing eligibility. The Staff proposes to use the eligibility criteria of section 214(e) to designate eligible telecommunications carriers. Do you agree with this proposal?

AT&T agrees.

VII. High Cost Support

- A. Proposal for Comment: As stated above, in "Preliminary Matters" the Directors of the TRA will consider the issue of whether Tennessee should develop its own cost study at the Conference scheduled for August 5, 1997. Therefore, if the parties desire to comment further on this issue, they should file those comments by August 1, 1997.

Comments already submitted and decision made.

- B. Proposal for Comment: FCC Order 97-157 sections 54.101 and 54.207 set forth the services designated for support and service areas. Is it appropriate for Tennessee to adopt these services? If not, what services do you believe should receive Universal Service support. Also please comment on how service areas may be defined in Tennessee.

As to the services to be included, AT&T believes the federal definition as expressed by the FCC, controls what must be included. AT&T does not believe Tennessee should add other services.

As to service areas for rural telephone companies, AT&T does not believe anything is necessary beyond the FCC's Rule §54.207.

As to service areas for nonrural telephone companies, AT&T agrees with the analysis of the proper factors to consider as stated by the Joint Board and as summarized by the FCC, ¶¶184-185. The TRA should require nonrural telephone companies to file a proposed service area designation consistent with the principle set forth by the Joint Board and FCC. All parties should then be required to comment on that proposal; and, after hearing, the TRA should designate appropriate service areas for nonrural telephone companies.

- C. Proposal for Comment: The Staff expects to use the elements that will be included in the national benchmark, (local, discretionary, interstate and intrastate access services, and other revenues used in the cost study). Do you feel these are the appropriate elements to be included in the benchmark?

The appropriate revenues must be matched up with the appropriate cost to determine the size of any existing subsidy, as well as analyzing the needs for any future subsidy. With respect

to the revenues to be counted in determining the state residential existing subsidy, the same categories of revenues that are used in calculating the national benchmark revenue level for purposes of the Federal universal high-cost service support should be used in calculating the Tennessee specific subsidy, using the same revenue categories with Tennessee specific rates for each local exchange carrier. The federal categories of revenues include average per line revenue derived from local service, discretionary services (e.g., call waiting, call forwarding, caller ID), and interstate and intrastate access services. However, for the development of the state benchmark average revenue per-line, it will also be necessary to include revenues that will accrue to the serving local exchange carrier from the federal universal service high cost funding mechanism and revenues from yellow pages operations. The FCC has determined that it will fund 25% of the cost above the national revenue benchmark. The TRA needs to establish its own intrastate benchmark to assist in the determination of the level of targeted intrastate universal service support.

VIII. Support for Low Income Consumers

- A. Proposal for Comment: The no-disconnect rule would prohibit disconnection of local service for Lifeline customers for non payment of toll charges. Despite the benefits of a no-disconnect rule for Lifeline consumers, the FCC recognized that state utility regulators would have the ability to grant carriers a limited waiver of the requirement under limited special circumstances. The Staff suggests that the TRA adopt the three requirements of the FCC for granting a waiver request. What is your position?

The FCC is raising Lifeline support from \$3.50 to \$5.25. The FCC will match 1/2 of state support up to an additional \$1.75 which will provide for a maximum of \$7.00 federal support.

AT&T agrees with the staff's suggestion.

- B. Proposal Requested: Currently, Tennessee provides \$3.50 per month support for Lifeline. At the state's current level of funding (\$3.50/month) the FCC will provide an additional \$7.00 in federal support for a total of \$10.50 in support. If this level of support is maintained, then procedures may be considered to prevent Lifeline customers from receiving 100% free service. For instances, should a minimum amount be charged to the Lifeline customer? Please comment.

Tennessee has the option of reducing its monthly support amount, which in turn would reduce the federal funding. Any reduction in Tennessee's current funding of \$3.50 will result in a Federal reduction of one half of the amount of the Tennessee reduction, down to the minimum Federal funding amount of \$5.25. For example, Tennessee funds \$1.00, Federal minimum funding \$5.25. Federal matching of 1/2 of state is \$.50. This would provide total support of \$6.75. Please comment.

AT&T agrees that a minimum charge would be reasonable.

AT&T does not believe that existing targeted programs should be reduced.

- C. Proposal Requested: The TRA requests comments from the parties on how funding for this support can be accomplished.

A Tennessee universal service support mechanism should be funded in a competitively neutral manner. All providers of telecommunications services should contribute to the universal service support mechanism based on their gross intrastate end user revenue, net of payments to other carriers.

X. Schools and Libraries

- A. Proposal Requested: During the July 15, 1997 TRA agenda, the Directors adopted the FCC matrix for federal funding to schools and libraries. In addition to this federal discount, the state currently has ISDN, School parent Telecommunications Service, in classroom Computer Access Service and Distance Learning Video Transport Service discounts available to schools and libraries.

1. Do any parties believe that more discounts to schools and libraries should be offered in addition to the federal discount matrix and the four state discounted services?
2. Should additional discounts to Internet services be provided by the state?

Existing federal and state programs are sufficient.

- B. Proposal Requested: Cost studies need to be submitted on the current state discounted services to determine if, in fact, schools and libraries are receiving a subsidy. Additionally, any other state discounted services will need studies to determine subsidies. Once the subsidy amounts are known a fund must be established to support the discounts. The TRA requests comments from the parties on how funding for this support can be accomplished. Please be specific

and provide your view on whether support for schools and libraries should come from the same source of revenues used to support other Universal Service items.

AT&T has no comments on this request at this time.

XI. Support for Health Care Providers

- A. Proposal Requested: The TRA requests comments from the parties on whether additional health care discounts are needed.

AT&T believes that no additional discounts are needed.

- B. Proposal Requested: The TRA requests comments from the parties on how funding for this support can be accomplished.

AT&T believes that no additional funding is required.

XIII. Administration of Support Mechanisms

- A. Proposal for Comment: BellSouth and United Telephone Southeast are the only companies which the Staff has identified as non-rural carriers. Are there others?

AT&T believes that in addition to BellSouth Telecommunications and United Telephone Southeast, the Citizens Companies should be considered as nonrural; and is not now sufficiently informed to take a definitive position as to all other carriers.

- B. Proposal Requested: The new support mechanisms approved will be the determining factor of the impact on transition from old support to the new system. Since the fund administrator is responsible for maintaining the new fund, it may be appropriate to allow the administrator to design a system for the transition. Please provide your opinion on a transition process.

Decisions as to the funding mechanisms and other decisions bearing on the transition should not await the designation of an administrator.

- C. Proposal Requested: The TRA requests comments from the parties on these specific issues regarding the structure of the intrastate Universal Service Fund.

AT&T believes it is premature to attempt a definitive statement as to all these issues at this stage of the proceeding. The final structure of the Tennessee mechanism will depend on how the TRA decides the various issues raised. Any attempt to state a final structure at this

time would require analysis of numerous alternatives and would be so complex and qualified as to be essentially meaningless. For example, as to some issues federal law clearly controls, as to other state law clearly controls, as to others, there are serious questions to be resolved. Even when state law controls there are serious questions as to what policies should be followed.

AT&T agrees that the objective of a coherent, comprehensive, coordinated plan must be borne in mind throughout this proceeding; and suggests that such a plan should be developed in stages, around specified issues.

- D. Proposal Requested: A carrier must notify the FCC and its' state Commission, that for purposes of Universal Service support determinations, it meets the definition of a rural carrier. Carriers should make such a notification each year prior to the beginning of the Universal Service Fund payout period for that year. What procedures can be put in place to ensure that rural carriers satisfy this requirements?

AT&T has no specific comments on this point at this time.

- E. Proposal Requested: Please provide comments on what criteria you believe is necessary for determining the need for a public interest payphone. Funding for public interest payphones may come from various sources such as the Universal Service Fund or an additive or charge on payphone access lines. What type of funding mechanisms do you believe would be appropriate for funding of public interest payphones?

AT&T has no comments on this point at this time.

- F. Proposal Requested: Please provide comments (determine if the TRA should administer the intrastate universal service fund).

AT&T believes that the TRA should retain complete oversight of universal service and continually monitor all aspects of it, as provided in T.C.A. §65-5-207(d). Ideally, AT&T believes that a neutral third-party administrator should be designated to handle the day-to-day management of the Tennessee system. However, there are serious questions as to the TRA's power under existing law to delegate any of its responsibilities to such a third-party, see T.C.A. §65-5-207(c)(4), and the absence of any express statutory authority for such delegation.

Moreover, it is not clear whether there are competent organizations available to undertake the task of administration.

- G. Proposal Requested: What criteria should be established to determine qualifications as fund administrator?

Assuming that the issues of authority are resolved, the primary qualifications should be neutrality and demonstrated competence. First, however, a clear definition of the responsibilities to be delegated would have to be developed.

- H. Proposal Requested: The FCC adopted a contribution assessment methodology that is competitive neutral and easy to administer. Contributions will be assessed against end users telecommunication revenues, revenues derived from end users for telecommunications, and telecommunications services, including SLCs. Please provide comments.

AT&T believes that carriers making contributions into the Tennessee universal service fund should recover those contributions by a surcharge on the end-user's bill.

XIV. Other

- A. Proposal Requested: Some parties have commented that these groups (task forces, etc.) would be helpful. If you believe these groups would be beneficial, explain where these groups or meeting make sense.

Generally, technical conferences may be beneficial with respect to complex technical issues, such as, e.g., cost methodology. Staff/industry task forces may be beneficial on certain policy matters, such as, e.g., developing recommendations for statutory changes and, perhaps, consideration of the various issues around an administrator and administration.

- B. Proposal Requested: Currently, the intrastate costs of operating the TRC are divided between intraLATA and interLATA for the state. The intraLATA portion is funded by all LECs based on their proportionate share of intraLATA minutes of use and the interLATA portion is funded by all interexchange carriers based on their proportionate share of interLATA minutes of use. Options for funding the TRC could include the current system, through the Universal Service Fund, or establishment of a separate fund. Which option do you believe would be best? The current fund is administered by BellSouth. Do you believe BellSouth should continue as administrator of the TRC fund?

AT&T believes that for the time being, BellSouth should continue as the administrator of the TRC fund as long as it is funded on a contract basis and does not include universal service funding for the Center. A permanent decision in this regard should be made later in this proceeding.

- G. Proposal for Comment: Implicit subsidies are the support that currently exists for universal service elements. This current support is determined based on embedded costs, therefore, the Staff believes embedded costs are appropriate to determine implicit subsidies. Do you agree?

AT&T does not agree. AT&T believes that embedded cost studies are not appropriate for use in competitive market circumstances. Forward-looking economic cost methodology is appropriate.

- H. Proposal for Comment: The Staff believes that implicit subsidies should be calculated in the most efficient and least burdensome manner. To facilitate this, the Staff prefers that implicit subsidies be calculated by service groups or categories. Please provide your comments.

AT&T agrees that the amount of implicit subsidies should be calculated in the most efficient and least burdensome manner -- which is based upon proper criteria and arrives at an appropriate result. Whether calculations should be by service groups or categories depends upon how those service groups or categories are defined or designated. Perhaps, in order to facilitate a decision in this regard the Staff should make a more specific proposal affording parties an opportunity to comment and, if appropriate, an opportunity for hearing.

- I. Proposal Requested: Please provide comments (determine effect of contracts between LECs (i.e., EAS, toll, private line, etc.) on subsidies.

All subsidies, implicit or explicit, should be identified. In order to determine the effect of such contract, it will be necessary for such contracts to be produced. After they have been produced an informed judgment can be made as to what the next step should be.

E. PROPOSED SCHEDULE FOR UNIVERSAL SERVICE⁹

In organizing the proposed schedule, the first factor to consider is that the cost studies for "rural, insular and high cost areas" must be completed and filed with the FCC on or before February 6, 1998, ¶248. For this reason, the schedule originally proposed will not work, since it contemplated completing the cost portion after that date. Thus, those cost studies must be completed in time to meet that deadline. Other related issues should also be resolved in time to meet that deadline. To do that will require an extremely tight schedule.

A second factor is to organize the schedule around the particular issues to be decided, with the general legal and policy issues to be decided on one track (which would include any hearings that might prove to be necessary with respect to those issues) and the factual and policy issues requiring testimony on a separate but concurrent track, affording time to schedule additional hearings should the need develop. Thus, it is suggested that AT&T's issues 1-4, which at this time appear to be largely legal and policy requiring no testimony should be in one group. Issues 1-4 should be in one group and be set on one track; issues 5-9 should be in a second group and set on a second track, and issues 10-11 in a third group, set on a third track. The third track can be addressed after the February 6, 1998 deadline and some of the issues in the other tracks may possibly be moved to be addressed after that date.

⁹ In preparing any schedule, the first step should be to group related issues into tracks; then to go through the steps necessary to resolve each sub issue in order to make sure all sub issues are adequately covered; and then, to set briefing and hearing schedules (including discovery and pre-filed testimony). Once all that is done, then a master chronological schedule should be prepared to make sure of appropriate coordination. In all this it should be remembered that the ultimate objective is to provide the TRA with an adequate basis for its final decision incorporating all issues into an overall plan, including the carrying-out of role and function in the federal system.

A third factor is flexibility and docket management. It is likely that changes will need to be made in any schedule which is initially adopted; and to provide such flexibility, the entire proceeding must be closely monitored and managed. For this reason, AT&T suggests that the Hearing Officer set periodic status conferences for the purpose of making sure that everything is on track and to make any schedule changes that may be appropriate. The proposed schedule which follows does not include specific dates for such status conferences, with the view that they should be set as the need arises.

There follows a proposed schedule on the basis of these factors. It is highly tentative and no doubt can be improved upon.

ISSUES

DATES

FIRST TRACK

Issues 1-4

1. Definition of Universal Service, i.e., what services are to be supported by a Tennessee universal service support system?

(a) Issues of law or a policy (briefs only-- no testimony)

All sub issues

Simultaneous briefs in chief
Simultaneous reply briefs

October 7, 1997
October 28, 1997

- (b) Issues of fact or policy
(testimony required)
None scheduled

- (c) Issues of fact for TRA
investigation/data requests

ISSUES

DATES

(i) Are there any telecommunications carriers/providers that will not be able to offer all the elements of universal service, as federally defined, by the end of 1998 (e.g., toll blocking); and, if so, what is the nature of the problem?

-- Data requests by
Responses by

October 1, 1997
October 15, 1997

(d) Implementation actions.

(i) Decisions made as to issues (a)(ii)(iii) & (iv), if answered affirmatively, will require further action to implement them. The exact nature of that action cannot now be predicted. The hearing officer should hold periodic status conferences for the purpose of such implementation.

-- TRA Decision made by

November 25, 1997

(ii) The results of the staff investigation/data requests called for in (d)(i) above, may require one or more evidentiary hearings, or other implementation

-- TRA Evaluation by

November 25, 1997

(iii) Should the TRA recommend to the General Assembly the revision of §§65-5-207, or other statutes concerning universal service; and, if so, should the parties participate in arriving at such recommendation?

No specific
deadline

2. What carriers/providers are eligible to receive support?

(a) Issues of law or policy
(briefs only -- no testimony)

-- All Sub Issues
Simultaneous Briefs in chief
Simultaneous Replies

October 7, 1997
October 28, 1997

(b) Issues of fact or policy (testimony required)

ISSUES

DATES

None at this time, but disputes may arise requiring testimony and hearings.

-- Any request for hearing filed by

October 7, 1997

(c) Issues of fact for TRA investigation/data requests

(i) Whether there are any unserved areas in Tennessee within the meaning of §214(e)(3)?

Unserved area investigation completed by

October 15, 1997

(d) Implementation Actions

(i) The TRA must designate "service areas" pursuant to §214(e)(5). Service areas for rural telephone companies should be designated as provided in FCC Rule §54.207. For nonrural telephone companies, the TRA should require such companies to file a proposed service area designation consistent with the principles set forth by the joint board and the FCC, see ¶¶184 and 185. All parties should then be allowed to comment on those proposals; and, after hearing, the TRA should designate appropriate service areas for such nonrural telephone companies.

Rural service areas

-- Designate by

October 15, 1997

Nonrural service areas

-- Nonrural carriers submit proposals by

October 15, 1997

-- Responses by

November 4, 1997

-- Hearing, if any, by

December 1, 1997

-- Prefiled testimony

(schedule to be set when hearing set)

(ii) Once the foregoing issues of law are decided, the TRA must designate eligible telecommunications carriers, and in doing so must bring all such carriers within its jurisdiction for this purpose.

-- Initial designation of eligible carriers by

December 1, 1997

ISSUES

DATES

(iii) If the TRA adopts advertising requirements and guidelines, or facilities requirements, procedures should be adopted to implement and enforce them.

-- Advertising guidelines, if any, by

April 1, 1998

(iv) If the TRA determines that there are gaps or inconsistencies in the present Tennessee statutes in this regard, e.g., with respect to carriers not now subject to TRA jurisdiction under state law, should the TRA recommend legislative changes?

No date set

(v) Once the designation of service areas and eligible telecommunications carriers is completed, should proceedings with respect to rural and nonrural carriers then be bifurcated?

-- Consider after

December 1, 1997

(vi) What procedure should be put in place to ensure that rural carriers satisfy the notification of status requirements?

-- Establish procedure by

April 1, 1998

3. What carriers/providers must provide support under a Tennessee system?

(a) Issues of law or policy (briefs no testimony).

All Sub Issues

-- Simultaneous briefs in chief

October 7, 1997

-- Simultaneous replies

October 28, 1997

(b) Issues of fact or policy
(testimony required).

None scheduled

-- Any request for hearing filed by

October 7, 1997

(c) Issues of fact for TRA investigation/data requests.

ISSUES

DATES

(i) Rule 54.703 specifies the telecommunications carriers that must contribute to the federal system. The TRA staff should identify all such carriers operating in Tennessee.

-- Notice to all carriers/providers served by

September 15, 1997

(d) Implementation Actions.

-- TRA notify by

September 15, 1997

(i) All telecommunications carriers which may be required to contribute support must be given notice that their rights may be determined in this proceeding and of what action may be taken if they fail to attend and participate.

September 15, 1997

-- TRA decision on all sub issues by

December 1, 1997

4. What should be the basis for determining support, including the requirements that rates be affordable and that any subsidy be explicit?

(a) Issues of law or policy
(briefs only -- no testimony)

All Sub issues

Simultaneous briefs in chief

October 7, 1997

Simultaneous replies

October 28, 1997

(b) Issues of fact or policy (testimony required)

None Scheduled

Any request for hearing filed by

October 7, 1997

(c) Issues of fact for TRA investigation/data requests

(i) The TRA should submit data requests to all LECs to collect the information necessary to determine "affordability".

"Affordability" data requests submitted by
Responses by

October 1, 1997
November 15, 1997

ISSUES

DATES

(d) Implementation actions.
(i) The decisions made in this regard form the basis for decisions as to the issues which follow.

(ii) TRA Decision by

December 1, 1997

Discovery Testimony Schedule for Track 1 Issues

All discovery requests by
All discovery responses by

September 15, 1997
September 30, 1997

Prefiled Testimony Schedule for Tract 1 Hearings, if any set

Testimony in chief due 30 days before hearing
Reply testimony due 15 days before hearing
Rebuttal testimony due 7 days before hearing

ISSUES

DATES

SECOND TRACK --

Issues 5-9

5. How should the TRA determine the basis for "high cost" support?
6. How should the TRA determine the basis for support for "low income consumers?"
7. What support should be provided schools and libraries?
8. What support should be provided for health care providers?
9. What should be the sources, and the level or amount of support in a Tennessee universal service support system?

(a) All issues of law or policy

Simultaneous briefs in chief

September 30, 1997

Simultaneous replies

October 21, 1997

TRA Decisions on these issues by

November 10, 1997

(b) Issues of fact

All issues requiring hearing

Week of 11/17/97

(c) TRA Investigations

None at this time

(d) Implementation Actions

TRA Decision by

December 16, 1997

Petitions for Reconsideration by

December 30, 1997

Replies to Petitions for
Reconsideration by

January 13, 1998

Final TRA Decision on these issues by

January 27, 1998

ISSUES

DATES

Cost Models

September 15, 1997

Discovery Schedule for Track 2 Issues

All discovery requests by
All discovery responses by

September 22, 1997
October 14, 1997

Prefiled Testimony for Track 2 Hearing

Testimony in chief
Reply testimony

October 17, 1997
October 31, 1997

Rebuttal Testimony due

November 7, 1997

ISSUES

DATES

THIRD TRACK

Issues 10 - 14

10. What steps should the TRA take to ensure that a Tennessee system is nondiscriminatory and competitively neutral?

11. How may universal service support contributions be recovered by the carriers/providers making them?

12. How should the transition from the existing implicit system in Tennessee to a new explicit system be accomplished, including any adjustments in the rates of carriers affected by the transition?

13. How, and by whom, should a Tennessee universal service support system be administered?

14. What action needs to be taken to bring all decisions within a coherent, comprehensive, coordinated plan?

(a) All issues of law or policy not requiring testimony.

Simultaneous briefs in chief by

February 17, 1998

Simultaneous reply briefs by

March 10, 1998

TRA Decisions on these issues by

March 24, 1998

(b) Issues of fact

Hearings on all Track Three issues requiring testimony

Week of
April 27, 1998

(c) TRA Investigations

None at this time

(d) Implementation Actions

Comprehensive TRA Decision covering issues in all three tracks

May 19, 1998

Petitions for Reconsideration by

May 29, 1998

Replies to Petitions by

June 9, 1998


ISSUES

DATES

Final TRA Decision by	June 23, 1998
Discovery Schedule for Track 3 Issues	
All discovery requests by	February 23, 1998
All discovery responses by	March 20, 1998
Direct Prefiled Testimony	April 3, 1998
Rebuttal Testimony due	April 13, 1998

CONCLUSION

AT&T appreciates the difficulties in organizing this proceeding and trusts that these comments will be of assistance in overcoming them.




Val Sanford, #3316
GULLETT, SANFORD, ROBINSON & MARTIN, PLLC
230 Fourth Avenue North, 3rd Floor
P.O. Box 198888
Nashville, TN 37219-8888
(615) 244-4994

James P. Lamoureux, Esq.
AT&T
Room 4068
1200 Peachtree Street N.E.
Atlanta, GA 30309
(404) 810-4196

Attorneys for AT&T Communications of the
South Central States, Inc.

CERTIFICATE OF SERVICE

I hereby certify that a true and exact copy of the foregoing Comments of AT&T Communications of the South Central States, Inc. as to Issues and Schedule has been served on counsel of record and other interested parties via First Class Mail postage prepaid or hand delivery, this 21st day of August, 1997.


Val Sanford

Guy M. Hicks, Esq.
Attorney for BellSouth
333 Commerce Street, Suite 2101
Nashville, Tennessee 37201-3300

H. Ladon Baltimore, Esq.
Attorney for LCI International Telecom
Farrar & Bates, L.L.P.
211 Seventh Avenue North
Suite 320
Nashville, TN 37219-1823

Jon Hastings, Esq.
Attorney for MCI
Boulton Cummings, Connors & Berry
P. O. Box 198062
Nashville, Tennessee 37219

T. G. Pappas, Esq.
Coalition of Small LEC
Bass, Berry & Sims
2700 First American Center
313 Deaderick Street
Nashville, TN 37238-2700

Carolyn Tatum Roddy, Esq.
Attorney for Sprint
Sprint Communications Co., L.P.
3100 Cumberland Circle - N0802
Atlanta, Georgia 30339

Dana Shaffer, Esq.
Attorney for NEXTLINK
105 Molloy Street, Suite 300
Nashville, Tennessee 37201

Richard M. Tettlebaum, Esq.
Citizens Telecom
Suite 500
1400 16th Street, N.W.
Washington, DC 20036

Henry Walker, Esq.
Attorney for American Communications
Services, Inc.
Boulton, Cummings, Connors & Berry
P. O. Box 198062
Nashville, Tennessee 37219

Charles B. Welch, Jr., Esq.
Attorney for Time Warner, Inc.
Farris, Mathews, Gilman, Branen & Hellen
511 Union Street, Suite 2400
Nashville, TN 37219

L. Vincent Williams, Esq.
Office of the Consumer Advocate
Cordell Hull Building, 2nd Floor
426 Fifth Avenue North
Nashville, Tennessee 37243-0500

James B. Wright, Esq.
United Telephone-Southeast, Inc. & Sprint
Communications
14111 Capital Boulevard
Wake Forest, NC 27587-5900

Dana Frix, Esq.
AVR, L.P. d/b/a Hyperion of TN, L.P.
Swidler & Berlin, Chartered
3000 K Street, N.W., Ste 300
Washington, D.C. 20007

Guilford F. Thornton, Jr., Esq.
BellSouth Cellular Corp.
Stokes & Bartholomew
424 Church Street, 28th Floor
Nashville, TN 37219-2386

James W. Dempster, Esq.
Ben Lomand Rural Telephone
Cooperative, Inc.
118 East Main Street
P. O. Box 332
McMinnville, TN 37111-0332

Wayne Gassaway, Manager
DeKalb Telephone Cooperative, Inc.
P. O. Box 247
Alexandria, TN 37012

W. T. Sims, Manager
Yorkville Telephone Cooperative
P. O. Box 8
Yorkville, TN 38389

William C. Carriger, Esq.
Electric Power Board of Chattanooga
400 Krystal Building
One Union Square
Chattanooga, TN 37402

Charlene Taylor (Chaz Taylor, Inc.)
ATTN: Sheila Davis
3401 West End Avenue, Suite 378
Nashville, TN 37203

Dan H. Elrod, Esq. and
Kenneth M. Bryant, Esq.
GTE Mobil Net
Trabue, Sturdivant & DeWitt
511 Union Street, 25th Floor
Nashville, TN 37219

Phoenix Network
ATTN: Denise Newman
1687 Cole Boulevard
Golden, Colorado 80401

Fred L. Terry, General Manager
Highland Telephone Cooperative, Inc.
P. O. Box 119
Sunbright, TN 37872

Standard Communications Co.
ATTN: Richard S. Smith, President
302 Sunset Drive, Suite 101
Johnson City, TN 37604

F. Thomas Rowland, Manager
North Central Telephone Cooperative, Inc.
P. O. Box 70
Lafayette, TN 37083

State Department of Education
ATTN: Jane Walters
Commissioner
6th Floor, Gateway Plaza
710 James Robertson Parkway
Nashville, TN 37243-0375

D. Billye Sanders, Esq.
TCG MidSouth, Inc.
Waller, Lansden, Dortch & Davis
511 Union Street, Suite 2100
P. O. Box 198966
Nashville, TN 37219-8966

State Department of Finance
and Administration
ATTN: Jack R. McFadden
Director
598 James Robertson Parkway
Nashville, TN 37243-0560

Glen G. Sears, General Manager
West Kentucky Rural Telephone
Cooperative Corp, Inc.
237 North 8th Street
Mayfield, KY 42066

360° Communications Company
ATTN: Thomas J. Curran
Director External Affairs
8725 W. Higgins Road
Chicago, IL 60631

WorldCom
LaDon Baltimore, Esq.
Farrar & Bates, L.L.P.
211 Seventh Avenue, North, Suite 320
Nashville, TN 37219-1823